

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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STEPHEN B. WAINWRIGHT,

Petitioner,

v.

ERIC D. WILSONN,

Respondent.

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ORDER

13-cv-112-wmc

Petitioner Stephen Wainwright, a prisoner at the Federal Correctional Institution in Petersburg, Virginia, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge his Wisconsin state conviction. He requests leave to proceed *in forma pauperis*. Petitioner has supported his request with an affidavit of indigency and an inmate account statement from the institution.

In determining whether to allow a prisoner to proceed *in forma pauperis*, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Although petitioner's statement only includes three months of the preceding six months, I find that he is able to pay the filing fee. According to the trust account statement, petitioner's monthly deposits have averaged \$340.00 from August 13, 2012 to November 14, 2012. Twenty percent of this figure is \$68.00. Accordingly, I will deny petitioner's application for leave to proceed *in forma pauperis*. To proceed further on his habeas petition, petitioner must pay the \$5

filing fee. If he fails to pay the fee by March 15, 2013, his petition will be dismissed for his failure to prosecute it.

ORDER

IT IS ORDERED that the petition of Stephen Wainwright for leave to *proceed in forma pauperis* is DENIED. Petitioner has until March 15, 2013 in which to pay the \$5 filing fee. If he fails to submit the fee by March 15, 2013, his petition will be dismissed for failure to prosecute it.

Entered this 21<sup>st</sup> day of February, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge